

1/13/09

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MINUTES OF THE CITY COUNCIL OF THE CITY OF SANTA CLARA  
FOR MEETING HELD ON TUESDAY EVENING, DECEMBER 2, 2008

The City Council met at 5:00 pm, on the above-mentioned date, for a Closed Session in the Council Conference Room for a Conference with Real Property Negotiator pursuant to Government Code Section 54956.8 regarding Property: APN 104-43-051, APN 104-43-052, APN 104-43-030, APN 104-42-014 and APN 104-42-019; Negotiating Party(ies): Cedar Fair and the San Francisco 49ers; City Negotiator: Jennifer Sparacino, City Manager (or her designee); Under Negotiation: Purchase/Sale/Exchange/Lease of Real Property (provisions, price and terms of payment) and for a Conference with Agency Labor Negotiator pursuant to Government Code Section 54957.6; City Negotiator: Jennifer Sparacino, City Manager (or her designee); Employee Organization(s): Unit #3 - IBEW Local 1245 (International Brotherhood of Electrical Workers), Unit #4 - City of Santa Clara Professional Engineers, Units #5, 7 & 8 - City of Santa Clara Employees Association, Unit #6 - AFSCME Local 101 (American Federation of State, County and Municipal Employees), Unit #9 - Miscellaneous Unclassified Management Employees and Unit #10 - PSNSEA (Public Safety Non-Sworn Employees Association).

The Council then met at 7:03 pm for a regular meeting in the City Hall Council Chambers. The meeting was opened with the recitation of the Pledge of Allegiance and the reading of an Invocation-Prayer.

Present: Council Members Dominic J. Caserta, Will Kennedy, Patrick Kolstad, Joe Kornder, Jamie McLeod and Kevin Moore and Mayor Patricia M. Mahan.

Staff present: City Manager, Assistant City Manager, Director of Planning and Inspection, Acting Director of Public Works - Tom Supan, City Attorney and City Clerk/Auditor.

- 3.(7.D) MOTION was made by McLeod, seconded and unanimously carried, that the Council continue to a date uncertain, the public hearing that was scheduled for this evening's meeting regarding the adoption of a Resolution approving, confirming and adopting the Traffic Mitigation Program and Traffic Mitigation Impact Fee Report for Fiscal Year 2008-09.

- (6.C.2) The City Manager noted that under City Manager Reports, she would be reviewing the Financial Crisis Impact on the City (Director of Finance 12/02/08).

- 4.A As a Special Order of Business, the Council proceeded with the recognition of Mission Engineers, Inc. for their services to the Santa Clara community since 1953. The Mayor reviewed the Deputy City Manager's memo (11/25/08) and gave an electronic presentation highlighting Mission Engineers, Inc. Steve Van Dorn, President of the Santa Clara Chamber of Commerce and Convention-Visitors Bureau, addressed the Council with comments honoring the business. Phillippe Auger, representing Mission Engineers, addressed the Council with comments of gratitude for the recognition and introduced his family, friends and staff present in the audience. Photographs were taken.
- 5.A Stephen Hazel addressed the Council seeking reconsideration of the November 25, 2008 Council action related to the approval of the amended City Council Minutes of November 16, 2004 to reflect that Council Member Caserta abstained on the Council vote relating to Mills Act Contract issues. No Council action was taken.
- 5.B., 5.C As an item of Unfinished Business, the Council proceeded to consider the Assistant City Manager's memo (11/25/08) regarding Amendment No. 1 to the consulting contract with Keyser Marston Associates, Inc. for fiscal and economic analysis to assist staff in the San Francisco 49ers stadium Term Sheet negotiations. The Assistant City Manager reviewed his memo. Nancy Lang and Stephen Hazel addressed the Council in opposition to the proposed amendment. James Rowen addressed the Council in favor of the proposed amendment. A Council discussion followed. MOTION was made by Kolstad, seconded and unanimously carried, that the Council approve, and authorize the City Manager to execute, Amendment No. 1 to the consulting contract with Keyser Marston Associates, Inc., which increases the contract amount by \$100,000 to a total not to exceed amount of \$250,000, for fiscal and economic analysis to assist staff in the San Francisco 49ers stadium Term Sheet negotiations. The Council duly noted and filed the correspondence received regarding the proposed San Francisco 49ers stadium as of October 31, 2008 (Senior Staff Aide - 11/25/08) and the correspondence received regarding the proposed increase to the contract amount (Executive Assistant to the Mayor and City Council - 12/02/08).

5.D Also as an item of Unfinished Business, the Council proceeded to consider the Director of Planning and Inspection's memo (11/20/08) regarding an amendment of Interim Procedural Policy regarding review of Big Box Retail (Supercenter) applications. The City Manager reviewed the agenda report and gave an electronic presentation. A Council discussion followed and the City Manager and the City Attorney answered Council questions. MOTION was made by McLeod, seconded and unanimously carried, that the Council approve the Big Box Retail Policy, amended to replace the word "may" to "shall" in all instances and to revise the language to state that the "... Council shall require that the applicant submit an economic impact analysis to support the applications", and to include an analysis of the steps necessary to pass an Ordinance on the subject at the January 27, 2009 Council meeting.

6.A.2 MOTION was made by Moore, seconded and unanimously carried, that per the Director of Electric Utility (11/25/08), the Council approve the use of City Electric forces for the installation of facilities at The Alameda, Bellomy Street and Park Avenue.

6.A.3 MOTION was made by Moore, seconded and unanimously carried, that per the Acting Director of Human Resources (11/24/08), the Council set salary of \$9,931 per month at 102.8 percent of control point for David Staub as the newly appointed Superintendent of Street/Storm Maintenance.

6.A.4 MOTION was made by Moore, seconded and unanimously carried, that per the Director of Electric Utility (11/25/08), the Council approve a Quitclaim Deed, which pursuant to the Agreement and Grant Deed of Easement for an Electric Substation, dated August 6, 1998, quitclaims to the State of California all its rights, title and interest in and to the real property located at Lafayette Street and Agnew Road (future Hope Substation property) and authorize the recordation thereof (APN 097-08-050).

6.A.5 MOTION was made by Moore, seconded and unanimously carried, that per the Director of Public Works/City Engineer (11/26/08), the Council approve the Plans and Specifications for the San Tomas Aquino/Saratoga Creek Trail - Reach 4; authorize the City Manager to make minor non-substantive modifications, if necessary, and authorize the advertisement for bids.

- 6.A.6 **MOTION** was made by Moore, seconded and unanimously carried, that per the Director of Public Works/City Engineer (11/26/08), the Council **adopt** Resolution No. 08-7577 entitled, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA CLARA, CALIFORNIA, ESTABLISHING CERTAIN PARKING REGULATIONS ON STEVENS CREEK BOULEVARD AND ON BUCKINGHAM DRIVE" which **repeals** Section 1 of Resolution No. 4992, which established a 2-Hour Parking zone from 8 am to 6 pm on the same day, Saturdays, Sundays and Holidays excepted, on the north side of Stevens Creek Boulevard between Saratoga Avenue and Buckingham Drive and on the east side of Buckingham Drive from Stevens Creek Boulevard to Keystone Avenue, and **establishes** a 4-Hour Parking zone from 8 am to 6 pm, Saturdays, Sundays and Holidays excepted, on the north side of Stevens Creek Boulevard, west of Saratoga Avenue and a 2-Hour Parking zone from 8 am to 6 pm, Saturdays, Sundays and Holidays excepted, on the east side of Buckingham Drive, north of Stevens Creek Boulevard.
- 6.A.7 **MOTION** was made by Moore, seconded and unanimously carried, that per the Director of Public Works/City Engineer (11/26/08), the Council **endorse** the Comprehensive County Expressway Planning Study Draft 2008 Update in anticipation of formal adoption by the County Board of Supervisors.
- 6.A.8 **MOTION** was made by Moore, seconded and unanimously carried, that per the Senior Staff Aide (11/17/08), the Council **approve** the publication of the proposed February 2009 Mission City SCENES.
- 6.B.1 **MOTION** was made by Moore, seconded and unanimously carried, that per the Director of Electric Utility (11/25/08), the Council **approve**, and authorize the City Manager to execute, an Electric Service Agreement with Vishay-Siliconix, Inc. for the purchase of electricity on a long-term basis in exchange for certain discounted rates.
- 6.B.2 **MOTION** was made by Moore, seconded and unanimously carried, that per the Director of Streets and Automotive Services (11/21/08), the Council **approve**, and authorize the City Manager to execute, Amendment No. 1 to the contract with Galedrige Construction, which increases the contract amount by \$173,505 to a total not to exceed amount of \$997,152, for the 2008 Asphalt Removal and Repair Project.

- 6.B.3 MOTION was made by Moore, seconded and unanimously carried, that per the Director of Electric Utility (11/24/08), the Council delegate authority to the City Manager to execute Amendment No. 5 to the Grizzly Development and Mokelumne Settlement Agreement, and future amendments required to implement the California Independent System Operator (CAISO) Market Redesign and Technology Update, pending final review of the City Attorney.
- 6.B.4 MOTION was made by Moore, seconded and unanimously carried, that per the Director of Electric Utility (11/18/08), the Council approve, and authorize the City Manager to execute, Call No. 08-4, Call No. 08-5 and Call No. 08-6 with Paragon Partners, Ltd., in a total amount not to exceed \$750,000, for Outside Plant (OSP) Engineering Services, Construction Management Services, and Technical Services in support of the Fiber Optics Enterprise.
- 6.B.5 MOTION was made by Moore, seconded and unanimously carried, that per the Director of Electric Utility (11/25/08), the Council approve, and authorize the City Manager to execute, Amendment No. 1 to the Fiber Lease Agreement with Qwest Communications, Inc. to reflect the correct corporate name of Qwest Communications Corporation.
- 6.B.6 MOTION was made by Moore, seconded and unanimously carried, that per the Director of Planning and Inspection (10/22/08), the Council approve, and authorize the City Manager to execute, the Professional Services Agreement with Shums Coda Associates, in an amount not to exceed \$117,000, for professional plan check services.
- 6.B.7 MOTION was made by Moore, seconded and unanimously carried, that per the Director of Streets and Automotive Services (11/14/08), the Council approve, and authorize the City Manager to execute, an Agreement for Services with Valley Concrete, in the amount of \$174,948.50, for the 2008-09 Sidewalk, Curb and Gutter Maintenance Project and authorize the City Manager to execute change orders in connection with this project, which in the aggregate do not exceed 10% (\$17,495) of the agreement amount.
- 6.C.1 MOTION was made by Moore, seconded and unanimously carried, that the Council note and file the Informational Memo entitled, "Trademark application for two names associated with Silicon Valley Power's Advance Metering Infrastructure (AMI) Initiative (Director of Electric Utility - 11/25/08)".
- 6.D.1 MOTION was made by Moore, seconded and unanimously carried, that the Parks and Recreation Commission Minutes for the meeting held on November 18, 2008 be adopted as written.

6.E.1 MOTION was made by Moore, seconded and unanimously carried, that per the Senior Staff Aide (11/24/08), the Council approve Santa Clara Lions Football Club's request for matching Championship Team Funding in the amount of \$10,000 to travel to Orlando, Florida to compete in the National Pop Warner Championship December 3-13, 2008, subject to the execution of a Contribution Agreement.

7.A PUBLIC HEARING: The Mayor declared the hearing open for consideration of the Director of Planning and Inspection's memo (11/25/08) regarding the Planning Commission's recommendation to adopt Resolutions to 1) Certify the Environmental Impact Report for the San Tomas Business Park Campus Project; 2) Adopt the Mitigation Monitoring and Reporting program and approve a Statement of Overriding Considerations; 3) Approve the General Plan Amendment from Light Industrial designation to Office/Research and Development designation (General Plan Amendment No. 71); 4) Approve the Rezone from Light Industrial to Planned Development; and 5) Pass to print an Ordinance approving a Development Agreement at 2600, 2800 San Tomas Expressway and 2400 Condensa Street to allow construction of a phased campus development consisting of three buildings to be up to 8 floors to accommodate up to 1,950,000 square feet of high-tech lab and office uses, with associated parking structures with up to 7,050 spaces, including a pedestrian bridge over the San Tomas Aquino Creek, subject to conditions. The Director of Planning and Inspection reviewed his memo (11/25/08) and gave and electronic presentation. He then answered Council questions. Project applicant, John Hankey, NVIDIA Vice President, Dave Wilbur, Development Manager for Harvest Properties, and Ted Korth, Korth Sunseri Hagey Architects, and Rene Bihan, SWA Landscaping Group, then addressed the Council with comments on the project and showed an electronic presentation. Kevin Park and Oscar Bazarro addressed the Council with comments of concern regarding the project. Steve Van Dorn addressed the Council in favor of the project. With no further public comment, MOTION was made by Caserta, seconded and unanimously carried, that the Council close the public hearing. MOTION was then made by Caserta, seconded and unanimously carried, that the Council adopt Resolution No. 08-7578 entitled, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA CLARA, CALIFORNIA, CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT ("FEIR"), MAKE FINDINGS WITH RESPECT THERETO, ADOPTING THE MITIGATION MONITORING AND REPORTING PROGRAM AND APPROVING A STATEMENT OF OVERRIDING CONSIDERATIONS FOR THE PROJECT LOCATED AT 2600, 2800 SAN TOMAS EXPRESSWAY AND 2400 CONDENSA STREET, SANTA CLARA, CALIFORNIA" which certifies the Final Environmental Impact Report for the San Tomas Business Park Campus Project. MOTION was made by

Caserta, seconded and unanimously carried, that the Council adopt Resolution No. 08-7579 entitled, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA CLARA, CALIFORNIA, APPROVING THE GENERAL PLAN AMENDMENT FOR THE PROPERTY LOCATED AT 2600, 2800 SAN TOMAS EXPRESSWAY AND 2400 CONDENSEA STREET, SANTA CLARA, CALIFORNIA" which adopts the Mitigation Monitoring and Reporting Program and approves a Statement of Overriding Considerations. MOTION was made by Caserta, seconded and unanimously carried, that the Council adopt Resolution No. 08-7580 entitled, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA CLARA, CALIFORNIA, REZONING THE PROPERTY LOCATED AT 2600, 2800 SAN TOMAS EXPRESSWAY AND 2400 CONDENSEA STREET, SANTA CLARA, CALIFORNIA" which approves the General Plan Amendment from Light Industrial designation to Office/Research and Development designation (General Plan Amendment No. 71). MOTION was made by Caserta, seconded and unanimously carried, that the Council pass to print Ordinance No. 1841 entitled, "AN ORDINANCE OF THE CITY OF SANTA CLARA, CALIFORNIA, APPROVING A DEVELOPMENT AGREEMENT BETWEEN THE CITY OF SANTA CLARA AND HARVEST PROPERTIES, INC., FOR THE PROPERTY LOCATED AT 2600, 2800 SAN TOMAS EXPRESSWAY AND 2400 CONDENSEA STREET, SANTA CLARA, CALIFORNIA" which approves the Development Agreement at 2600, 2800 San Tomas Expressway and 2400 Condensa Street for the subject project.

7.B PUBLIC HEARING: The Mayor declared the hearing open for consideration of the Housing and Community Development Needs for the Fiscal Year 2009-10 Annual Consolidated Plan. The City Manager reviewed the Housing and Community Services Division Manager's memo (11/19/08). Walt Fowler, representing Heart of the Valley, Bob Campbell, representing Senior Housing Solutions (provided handout) and Ann Marquard, representing Project Sentinel addressed the Council with comments for Housing and Community Development needs. Robert Fitch addressed the Council with comments addressing affordable options for foreclosure properties. The City Manager and the Housing and Community Services Division Manager then answered Council questions. With no further public input, MOTION was made by Caserta, seconded and unanimously carried, that the Council close the public hearing. MOTION was then made by Caserta, seconded and unanimously carried, that the Council note and file all public testimony and handouts provided related to the public hearing.

7.C PUBLIC HEARING: The Mayor declared the hearing open for consideration of the approval to execute Non-Exclusive Franchise Agreements with Premier Recycle, Mission Trail Waste Systems, California Waste Solutions, Inc., Stevens Creek Disposal & Recycling, Allied Waste Services of North America, LLC., Qualified Trucking, Inc., Greenwaste Recovery, Inc., and Pacific Coast Recycling, Inc. for the hauling of industrial refuse and

recyclables for the period beginning January 1, 2009 and ending December 31, 2011. The City Manager reviewed the Director of Streets and Automotive Services memo (11/10/08). With no public input, **MOTION** was made by Caserta, seconded and unanimously carried, that the Council close the public hearing. **MOTION** was then made by Caserta, seconded and unanimously carried, that the Council **approve**, and authorize the City Manager to execute, a non-exclusive franchise agreement for hauling industrial refuse and recyclables with Premier Recycle, Mission Trail Waste Systems, California Waste Solutions, Inc., Stevens Creek Disposal & Recycling, Allied Waste Services of North America, LLC., Qualified Trucking, Inc., Greenwaste Recovery, Inc., and Pacific Coast Recycling, Inc., for the period beginning January 1, 2009 and ending December 30, 2011.

- 9.A **MOTION** was made by Caserta, seconded and unanimously carried, that the Planning Commission Minutes for the meeting held on November 19, 2008 be adopted as written.
- 9.B **MOTION** was made by Caserta, seconded and unanimously carried, that the Amended Planning Commission Minutes for the meeting held on September 24, 2008 be adopted as written.
- 9.C **MOTION** was made by Caserta, seconded and unanimously carried, that per the recommendation contained within the Historical and Landmarks Commission Minutes for the meeting held on November 6, 2008, the Council approve adding 753 Park Court to the City's List of Architecturally or Historically Significant Properties and approve a Mills Act Contract at a future meeting. The Minutes were then duly noted and filed.
- 9.D **MOTION** was made by McLeod, seconded and unanimously carried, that per the recommendation contained with the International Exchange Commission Minutes for the meeting held on November 10, 2008, the Council approve funding for and assign a City Delegation consisting of one or more Council Member(s) and one or more Commissioner(s) to travel to Izumo, Japan at a cost of approximately \$2,200 each to attend the celebration of Mr. Kuwabara's 25th anniversary as President of the International Exchange Association of Izumo on May 16, 2009. The Minutes were duly noted and filed.
- 9.E The Council proceeded to consider the Public Communications Manager's report (11/24/08) regarding the International Exchange Commission's report on the City's International Exchange Programs and approval of the updated Sister Cities criteria. The City Manager reviewed the memo. Rushton Hurley, chair of the Commission, answered Council questions. **MOTION** was made by Kennedy, seconded and unanimously carried, the Council approve



the International Exchange Commission's report on the City's International Exchange Programs and the updated criteria for exploration of sister city relationships, amended to include seeking cities in underdeveloped countries.

10. (6.A.1) The Council proceeded to consider the City Clerk/Auditor's memo (11/13/08) regarding the adoption of a Resolution approving updated City-wide and Departmental Records Retention Schedules. The City Clerk/Auditor reviewed his report and answered Council questions. Steve Hazel and Kevin Park addressed the Council expressing concerns. MOTION was made by Caserta, seconded and unanimously carried, that the Council adopt Resolution No. 08-7576 entitled, A RESOLUTION OF THE CITY OF SANTA CLARA, CALIFORNIA, ADOPTING REVISED RECORDS RETENTION SCHEDULES FOR CITY RECORDS" which approves the updated City-wide and Departmental Records Retention Schedules.

11. Under Public Presentations, Steve Van Dorn, President of the Santa Clara Chamber of Commerce and Convention-Visitors Bureau, addressed the Council and provided a letter regarding increasing utility tax.

Brett Shelton addressed the Council regarding a Christmas tree lot at 1100 El Camino Real. The issue was referred to the City Manager by consensus.

Steve Hazel addressed the Council with general concerns.

- 12.A MOTION was made by Caserta, seconded and unanimously carried, that the Council approve the Bills and Claims and Progress Payments.

14. The City Manager reviewed the financial crisis impact on the City and noted that an informational memo would be presented at the December 9, 2008 Council meeting.

- 15.A The City Attorney stated that the Council held earlier in the evening at 5:00 pm a **Closed Session** in the Council Conference Room for 1) Conference with Real Property Negotiator pursuant to Government Code Section 54956.8 regarding Property: APN 104-43-051, APN 104-43-052, APN 104-43-030, APN 104-42-014 and APN 104-42-019; Negotiating Party(ies): Cedar Fair and the San Francisco 49ers; City Negotiator: Jennifer Sparacino, City Manager (or her designee); Under Negotiation: Purchase/Sale/Exchange/Lease of Real Property (provisions, price and terms of payment) and that there was no reportable action; 2) Conference with Agency Labor Negotiator pursuant to Government Code Section

54957.6; City Negotiator: Jennifer Sparacino, City Manager (or her designee); Employee Organization(s): Unit #3 - IBEW Local 1245 (International Brotherhood of Electrical Workers), Unit #4 - City of Santa Clara Professional Engineers, Units #5, 7 & 8 - City of Santa Clara Employees Association, Unit #6 - AFSCME Local 101 (American Federation of State, County and Municipal Employees), Unit #9 - Miscellaneous Unclassified Management Employees and Unit #10 - PSNSEA (Public Safety Non-Sworn Employees Association) and that there was no reportable action.

MOTION was made by Caserta, seconded and unanimously carried, that, per the City Attorney, the Council set December 8, 2008 at 6:30 pm for a Closed Session in the Council Conference Room for a Conference with Agency Labor Negotiator pursuant to Government Code Section 54957.6 for a Conference with Agency Labor Negotiator, City Negotiator: Jennifer Sparacino, City Manager (or her designee); Employee Organization(s): Unit #3 - IBEW Local 1245 (International Brotherhood of Electrical Workers), Unit #4 - City of Santa Clara Professional Engineers, Units #5, 7 & 8 - City of Santa Clara Employees Association, Unit #6 - AFSCME Local 101 (American Federation of State, County and Municipal Employees), Unit #9 - Miscellaneous Unclassified Management Employees and Unit #10 - PSNSEA (Public Safety Non-Sworn Employees Association) and for a Conference with Real Property Negotiator pursuant to Government Code Section 54956.8 regarding Property: APN 104-43-051, APN 104-43-052, APN 104-43-030, APN 104-42-014 and APN 104-42-019; Negotiating Party(ies): Cedar Fair and the San Francisco 49ers; City Negotiator: Jennifer Sparacino, City Manager (or her designee); Under Negotiation: Purchase/ Sale/ Exchange/ Lease of Real Property (provisions, price and terms of payment) and set December 9, 2008 at 5:00 pm for a Closed Session in the Council Conference Room for a Conference with Real Property Negotiator pursuant to Government Code Section 54956.8 regarding Property: APN 104-43-051, APN 104-43-052, APN 104-43-030, APN 104-42-014 and APN 104-42-019; Negotiating Party(ies): Cedar Fair and the San Francisco 49ers; City Negotiator: Jennifer Sparacino, City Manager (or her designee); Under Negotiation: Purchase/Sale/Exchange/Lease of Real Property (provisions, price and terms of payment) and for a Conference with Agency Labor Negotiator pursuant to Government Code Section 54957.6 for a Conference with Agency Labor Negotiator, City Negotiator: Jennifer Sparacino, City Manager (or her designee); Employee Organization(s): Unit #3 - IBEW Local 1245 (International Brotherhood of Electrical Workers), Unit #4 - City of Santa Clara Professional Engineers, Units #5, 7

& 8 - City of Santa Clara Employees Association, Unit #6 - AFSCME Local 101 (American Federation of State, County and Municipal Employees), Unit #9 - Miscellaneous Unclassified Management Employees and Unit #10 - PSNSEA (Public Safety Non-Sworn Employees Association).

16.A

MOTION was made by Caserta, seconded and unanimously carried, that there being no further business, the meeting was adjourned at 9:45 pm in honor of the victims of the Mumbai Massacre to Monday evening, December 8, 2008 at 6:30 pm for a Closed Session in the Council Conference Room and to 7:00 pm in the City Hall Council Chambers for a Special Meeting and to Tuesday evening, December 9, 2008 at 5:00 pm for a Closed Session in the Council Conference Room and to 7:00 pm for the regular scheduled meeting in the City Hall Council Chambers.

ATTEST: \_\_\_\_\_

City Clerk

APPROVE: \_\_\_\_\_

Mayor